

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

RCRev..No. 433 of 2006()

RCA.202/2005 of D.C. & SESSIONS COURT,KOZHIKODE
RCP.3/2005 of MUNSIF COURT, KOYILANDY
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APPELLANT/RESPONDENT:

THANDAM VAYALKUNIYIL T.V. BABU,
S/O.NARAYANAN, AGED 47 YEARS,
ELITE DRIVING SCHOOL, KOYILANDY,
PANTHALAYANI AMSOM DESOM, KOYILANDY TALUK.

BY ADV. SRI.R.SUDHISSH
SMT.M.MANJU

RESPONDENTS:

MAITHANIVALAPPIL T.H. AHAMMED,
AGED 61 YEARS, S/O. ASYA UMMA,
PANTHALAYANI AMSOM, DESOM,
KOYILANDY TALUK.

BY /

THIS RENT CONTROL REVISION HAVING COME UP FOR
ADMISSION ON 12/12/2006,THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ
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R.C.R. NO. 433 OF 2006
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Dated this the 12th day of December 2006

ORDER

Udayabhanu, J

The revision petitioner is the tenant who is in occupation of the petition schedule premises wherein he is running a driving school. The R.C.P. was filed under section 11(2)(b) and 11(3) alleging arrears of rent and bonafide need for the son of the petitioner to start a grocery business. It is the case that the son of the petitioner is not having any regular employment and that he has to maintain a family consisting of his wife and children. The claim was disputed contending that the petitioner who is a porter has applied for transferring his licence of porter in favour of the son for whom the premises is sought. It has come out in evidence that the above application has not so far been allowed. The courts below found that even if the application stands allowed there is no bar for the petitioner seeking eviction of the premises for running a grocery shop by his son

2. It appears from the discussion of the evidence adduced that the need is only to start a small grocery shop and the courts have found that the need of the son who is a dependant of the petitioner is genuine and bona fide. It was also found that the revision petitioner is not entitled to benefit of the second proviso to section 11(3) as it was not established that there is no suitable premises in the locality to run the driving school of the revision petitioner.

In the circumstances and in the light of the evidence adduced in the matter and in view of the concurrent findings of the courts below we find that the revision petitioner has failed to establish any impropriety or illegality in the orders of the courts below and hence the revision petition filed is liable to be dismissed at the threshold. We do so. All the same and considering the plea of the counsel for the petitioner the tenant is allowed four months time from today onwards to vacate the premises on condition that he shall remit the entire rental arrears and continue to remit the rent due and file an affidavit to the

above effect to the execution court. The vacant possession shall be given to the landlord on 12.04.2007.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

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